

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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STEPHEN GANNON,

Plaintiff,

vs.

124 EAST 40TH STREET LLC, JOHN DOE 1-X,  
persons yet unknown, Limited Liability Companies,  
Partnerships, Corporations 1-X, entities yet  
unknown,

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Defendants.

Civil Action No. 1:22-cv-00361-LGS

**MOTION FOR SUMMARY JUDGMENT  
PURSUANT TO FEDERAL RULE OF  
CIVIL PROCEDURE 56(c)**

To: Adam D. Ford, Esq.  
Ford and Huff LC  
228 Park Avenue South  
New York, New York 10003

**PLEASE TAKE NOTICE** that as on Wednesday, August 30, 2023 or soon as counsel may be heard, the undersigned attorneys for Defendant 124 East 40th Street LLC (“Defendant”) will move before this Court, at the U.S. Courthouse, Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., New York, New York 10007-1312, for an Order granting summary judgment to Defendant and dismissing the Complaint filed by Plaintiff Stephen Gannon, pursuant to Federal Rule of Civil Procedure 56(c);

**PLEASE TAKE FURTHER NOTICE** that in support of the within Motion, Defendant will rely upon the Memorandum of Law, Statement of Material Facts Pursuant to L. Civ. R. 56.1, the Declaration of David Malanga, the Declaration of Altagracia Esther Martinez, R.A. with exhibits, and the Affirmation of Seth M. Rosenstein, Esq. with exhibits, and the Proposed Form of Order submitted herewith;

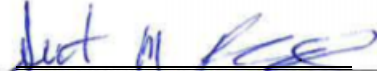
**PLEASE TAKE FURTHER NOTICE** that, any opposing affidavits and answering memorandum shall be served within fourteen (14) calendar days of this Motion filing; and

**PLEASE TAKE FURTHER NOTICE** that oral argument is requested in the event opposition is filed.

Dated: Woodland Park, New Jersey  
July 31, 2023

ANSELL GRIMM & AARON, P.C.

By:



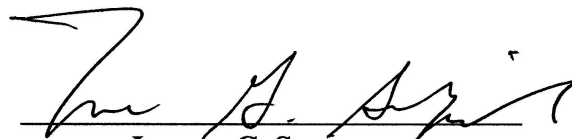
Joshua S. Bauchner, Esq.  
Seth M. Rosenstein, Esq.  
365 Rifle Camp Road  
Woodland Park, New Jersey 07424  
Tel: (973) 247-9000  
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*Attorneys for Defendant  
124 East 40th Street LLC*

The motion is DENIED without prejudice to renewal. The motion is in violation of the Court's Individual Rule III.A.1 which requires pre-motion letters and a pre-motion conference before the filing of a summary judgment motion. Per the Order at Dkt. No. 73, the parties are to submit a joint status report by **August 16, 2023**, after which a post-discovery conference will be scheduled to determine how to chart the further course of the litigation. Defendant shall file any pre-motion letter no later than **August 16, 2023**.

The Clerk of Court is respectfully directed to close the motion at Dkt. No. 78.

Dated: August 1, 2023  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**